

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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WISCONSIN EDUCATION ASSOCIATION  
COUNCIL, *et al.*,

Plaintiffs,  
v.  
Case No. 11-cv-00428-wmc

SCOTT WALKER, Governor of the State  
of Wisconsin, *et al.*,

Defendants.

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AFFIDAVIT OF CYNTHIA A. ARCHER

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STATE OF WISCONSIN      )  
                                  ) ss.  
DANE COUNTY              )

I, Cynthia A. Archer, being first duly sworn on oath, deposes and states as follows:

1. I am currently employed as the Deputy Secretary of the Wisconsin Department of Administration. I make this affidavit based on personal knowledge and knowledge of the Wisconsin Department of Administration (“DOA”) obtained by me in the exercise of my responsibilities as Deputy Secretary. I make this affidavit in support of Defendants’ Response To Plaintiffs’ Motion For A Temporary Restraining Order And/Or Preliminary Injunction

2. As part of my duties as DOA Deputy Secretary, I assisted in the development and analysis of 2011 Wisconsin Act 10 (“Act 10”).

3. These duties included assessing and planning for contingencies arising from the enactment of Act 10 including potential job actions and strikes by state and municipal employees. Specifically, DOA reviewed the impact of potential job actions on the ability of the

state to continue to provide essential and critical services including, among other things, public safety. This analysis was preformed prior to submitting Act 10 to the legislature

4. To assess contingencies and plan for the continued provision of critical functions, the State analyzed relevant data, including what are known as Continuity of Operations Plans (COOP). These COOP plans are maintained by each state agency. In their COOP plan, each agency is required to rank the services it provides as Level 1, 2, 3 or 4, with Level 1 services being those services that, in the opinion of the agency, are the most critical to the agency.

5. DOA reviewed Level 1 services to determine which services, if interrupted by a work stoppage, would cause a significant danger to the public health and safety. Critical state services were defined as services including security, medical care and food services at the state's 24/7 institutions (e.g., prisons, mental health facilities, etc).

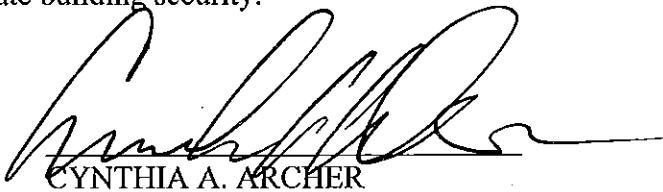
6. With respect to considering which public employees, if any, should be classified as Public Safety Employees in Act 10, DOA reviewed the resources required to maintain critical state services (Level 1 services). Level 1 services are defined as those state government services that cannot be interrupted for any period of time without directly affecting life safety, the exercise of critical civil authority, the maintenance of the safety of the general public or the provision of vital services. The agencies working with DOA analyzed replacement personnel available for such services in the event of a work stoppage including: the number of non-union employees who were qualified to provide the services; the ability to contract with private firms to provide the services for the duration of a work stoppage; the number of recent retirees available as temporary employees; and the ability to back fill positions with Wisconsin National Guard personnel.

7. The Wisconsin National Guard maintains a standing plan for providing personnel to support the Departments of Correction, Health Services and Administration.

8. Following DOA's Act 10 review and contingency planning, DOA concluded that there were insufficient State resources (unclassified staff, contractors, retirees, National Guard members, etc.) to fulfill the backfill staffing requirements necessary to ensure the continuation of critical services in the event of a mass job action.

9. In addition to inadequate staffing for critical State services, DOA identified a probable gap in staffing for state building and staff security in the event of large scale protests.

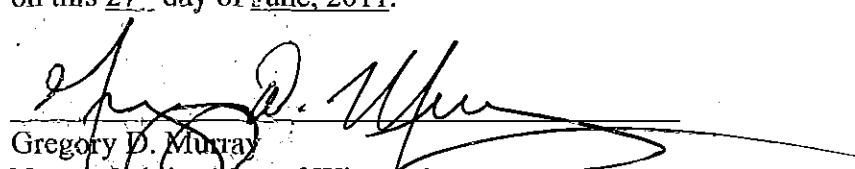
10. Upon forming this conclusion, DOA advised the Governor that reliance on the State patrol and local law enforcement were key assumptions in state agency plans and that a job action by these employees might jeopardize critical state services. DOA also advised the Governor that State patrol and local law enforcement would be required to provide necessary staff and state building security.



CYNTHIA A. ARCHER

Personally came before me this 27<sup>th</sup> day of June, 2011, the above-named Cynthia A. Archer, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Subscribed and sworn to before me  
on this 27<sup>th</sup> day of June, 2011.



Gregory D. Murray  
Notary Public, State of Wisconsin  
My commission is Permanent.